

Supreme Court of Kentucky

ORDER

**IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND
PROCEDURE, DOMESTIC RELATIONS/FAMILY LAW
PRACTICE, FOR THE 32ND JUDICIAL CIRCUIT, BOYD COUNTY**

Upon recommendation of the Judges of the 32nd Judicial Circuit, and
being otherwise sufficiently advised,

The Rules of Court Practice and Procedure, Domestic Relations/Family
Law Practice, for the 32nd Judicial Circuit, Boyd County, are hereby approved.

This order shall be effective as of the date of this Order, and shall remain in
effect until further orders of this court.

Entered this the 30th day of March 2012.


CHIEF JUSTICE JOHN D. MINTON, JR.

**THE FAMILY RULES OF COURT PRACTICE AND PROCEDURE
COMMONWEALTH OF KENTUCKY**

DOMESTIC RELATIONS/FAMILY LAW PRACTICE

BOYD CIRCUIT COURT

32nd JUDICIAL CIRCUIT

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RULE 1 INTRODUCTION/ADMINISTRATIVE PROCEDURE

101 Preface

These are the Uniform Rules of Court Practice and Procedures of the Boyd Circuit Court with respect to the Family Law/Domestic Relations Practice. These Rules supplement the Family Court Rules of Procedure and Practice (FCRPP), the Kentucky Rules of Criminal Procedure (RCR) and the Kentucky Rules (CR). These rules shall be the only operative Boyd County Court Rules for Family Law/Domestic Relations Practice. All previous rules adopted by the Boyd Circuit Court with respect to Family Law/Domestic Relations Practice are hereby rescinded.

102 Effective Date

The effective Date of these Rules shall be 30 days after the Kentucky Supreme Court approval.

103 Citations

These Rules shall be cited as the BCFRP (Boyd County Family Rules of Procedure)

104 Assignment of Cases

- a. All cases filed, will be assigned upon filing by the Circuit Court Clerk or his deputy at the time the case is filed.
- b. In the event the Judges of the respective divisions are disqualified from trying such cases so assigned for the reason of being attorney of record, or other reasons, the case in which such Judge is so disqualified shall be reassigned, by written order, to the other Division. The written Order reassigning the case shall be signed by the Judges of each Division.
- c. Where related actions are assigned to different Divisions, Judges may consolidate and/or transfer the actions to that Division of Court in which the first action was assigned. Both Judges must sign the Order transferring.

105 Holidays

Holiday schedules may be obtained at the Boyd County Circuit Clerk's Office.

RULE 2 COURT SCHEDULING/ MOTION HOUR/ PROCEDURES FOR FILING

201 Schedule

Motion hour will occur on Friday mornings. Division II will be held at 9:00 a.m., and Division I will be held at 9:30 a.m.

202 Deadlines

Motions shall be filed by Friday at 4:00 p.m. of the week preceding the Motion hour. If the courthouse is closed on Friday, then the motion must be filed by Thursday at 4:00 p.m.

203 Exceptions to Regular Motion Hour Schedule

If a state holiday falls on Friday, Motion Hour will be conducted on the following Friday. If the Court is closed for any unforeseen reason, Motion Hour shall be passed to the following Friday.

204 Responsive Pleadings

If a responsive pleading is faxed to the Court for consideration at motion hour, the responsive pleading must also simultaneously be faxed to opposing counsel/party. If a fax number is not available then it shall be mailed immediately to the opposing/party.

RULE 3 ADOPTION/TERMINATION OF PARENTAL RIGHTS

301 Sibling Cases

If there are siblings involved in any adoption/termination of parental rights case, the companion case shall be filed with the same Boyd Circuit Judge.

302 Review

In cases involving the termination of parental rights in which there is a companion juvenile case, the proof of review by the Juvenile Court shall be filed in the adoption/termination of parental rights case pursuant to FCRPP 32(2).

303 Guardian Ad Litem

If a Guardian Ad Litem has been appointed for the minor child in any juvenile court action, then the Petitioner's counsel shall notify the Boyd Circuit Clerk for appointment of the Guardian Ad Litem.

304 Temporary Custody Order

Temporary Custody Orders granted pursuant to KRS 199.473(7) shall be SEALED, and not opened to inspection by persons other than the parties to such proceedings and their counsel.

RULE 4 DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY

401 Twenty-Four Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Practice and Procedure (hereinafter "FCRPP") 13, the local Twenty-Four Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol is attached hereto as Appendix A and is incorporated herein by reference as if set out in full.

402 Violation of Domestic Violence Orders

- A. Without limiting a party's choice of remedies, any alleged violations of Domestic Violence Orders should be referred to the Boyd District/Circuit Court for possible prosecution, except as set forth in 402 (B).
- B. Without limiting a party's choice of remedies, alleged violations of Domestic Violence Orders pertaining to visitation, child support, counseling, or firearms provisions should be initiated through the Boyd District/Circuit Court and scheduled for contempt hearings on the appropriate court docket.

RULE 5 DOMESTIC RELATIONS PRACTICE

501 Domestic Relations Commissioner

- A. Cases involving child custody, child visitation/timesharing, child support, maintenance, property division and/or general divorce action may be referred to the Domestic Relations Commissioner pursuant to FCRPP 4. If there is a conflict with the assigned Domestic Relations Commissioner, the case shall be referred to the Domestic Relations Commissioner of the other division or a Special Domestic Relations Commissioner may be appointed if necessary. If a Special Domestic Relations Commissioner is appointed, the Special Domestic Relations Commissioner must have the same qualifications as the Domestic Relations Commissioner.
- B. Once the case is referred to the Domestic Relations Commissioner, the notice of hearing must be sent to all parties within seven (7) days. Continuances may only be made for good cause shown and written motion to opposing parties, unless the parties agree to the continuance. The Domestic Relations Commissioner has the authority to schedule and reset the hearings.
- C. The Domestic Relations Commissioner's Report and Recommendation shall be filed with the Clerk within twenty-one (21) days of the completion of the trial and the submission of evidence.

- D. Thereafter, either party has ten (10) days in which to file objections pursuant to FCRPP 4(4)(a).
- E. If the record is left open for the submission of evidence to the Domestic Relations Commissioner, then the attorneys and/or parties must file a joint motion that the matter now stands submitted to the Commissioner for report and recommendation.

502 Mediation

- A. If ordered by the Court pursuant to FCRPP2(6), the parties shall engage in mediation.
- B. Requirements for Mediation of the Property Distribution
At least five (5) days prior to the mediation, the parties shall exchange and provide to the mediator the financial disclosure statements and a short statement including the issues to be addressed.
- C. Qualifications and Applications for Boyd Family Court Approved Mediators
 - 1. The Boyd Circuit Court may maintain a list of approved mediators for family court issues.
 - 2. If any attorney wishes to become a court approved mediator then they must notify the Boyd Circuit Judges of their request. The Boyd Circuit Judges shall approve additions or deletions to the approved mediator list.
 - 3. The Mediator must have eight (8) years of family law experience, or have completed a forty (40) hour family law mediation class.
- D. Upon referral to Mediation, the parties must agree on a mediator. If the parties are unable to agree on a mediator within seven (7) days then the Court will select a mediator from the approved list.
- E. Compensation of the Mediator
 - 1. The mediator shall be compensated at the rate agreed upon by the mediator and the parties unless either or both qualify for the Family Court sliding scale fee schedule set out below. The mediator's fee may include, but not be limited to:
 - a. Mediation sessions;
 - b. Preparation for sessions;
 - c. Travel time;
 - d. Postponement or cancellation of mediation sessions; and

- e. Preparation of the parties' written mediation agreement prepared by mediator

2. Sliding Fee Schedule

The parties shall pay the mediation fees based upon their percents of income. If one party does not have an income then the Court must calculate the percent in which the parties shall pay based upon expenses and monies available.

F. **Completion of Mediation**

At the conclusion of mediation, the mediator shall report without comment to the Court as to the outcome of the mediation. The Court shall retain final authority to accept, modify or reject a mediation agreement.

G. **Confidentiality**

Mediation proceedings shall be held in private. All communications made during the proceedings shall be confidential. All conduct and communication made during a mediation conference shall be considered settlement negotiations governed by K.R.E. 408. Mediators shall not be subpoenaed regarding the matters discussed during mediation which is considered confidential.

RULE 6 MISCELLANEOUS RULES RELATING TO FAMILY LAW PRACTICE

601 Identification of Counsel or Party Required

Every pleading, motion and any other paper filed with the Court shall contain the case number, typed or printed name, address, telephone number of the attorney or party signing the paper.

602 Protection of Personal Identifiers

- A. All pleadings must comply with the requirements of KRS Chapters 205, 403, 405, 406 and 407 by providing the personal identifying information required in those chapters. However, when personal identifiers are required by statute or contained in other documents or exhibits the parties shall comply with CR 7.03 by filing one copy from which the personal identifiers have been redacted and filing an unredacted copy in a marked and sealed envelope. The unredacted sealed copy may only be accessed by a party to the case, an attorney of record in the case, a judge of the court or other

authorized court personnel. The personal identifier means the date of birth, Social Security number, taxpayer identification number or financial account number.

- B. Pleadings, documents, or exhibits filed in actions deemed confidential by statute need not be redacted.

603 In-Chamber Interviews

Copies of in-chamber interviews with children shall not be released without written order. If an in-chamber interview is requested, the moving party must provide the Court a written explanation for the request which specifically indicates the portion of the video record being requested and the specific purpose for the request.

604 Disclosures

When parties are exchanging the preliminary disclosure statement and/or the final disclosure statement or objections thereto or list of witness and exhibits they must file a notice of compliance that the documents have been exchanged with the Clerk.

605 Guardian Ad Litem

- A. If a guardian ad litem is appointed in a family court matter (not involving a termination of parental rights as requested by the Cabinet for Health and Family Services) an Order Appointing a Guardian ad Litem will be prepared by the Judge's office that specifies the percentage of financial responsibility of each party. The fee will be determined based on the the following:
- a. The character of the litigation;
 - b. The rights in controversy;
 - c. The nature, duration and extent of the services;
 - d. The responsibility, industry, diligence and accomplishment of the guardian;
 - e. The general methods of evaluating attorney fees; and
 - f. The allowance for services, if any, in the Court of Appeals.
- B. Any motions for payment of Guardian Ad Litem fees must be submitted with a verified time affidavit. The Guardian Ad Litem may obtain a copy of the court file/record at no cost.
- C. The GAL will collect said fees from the parties according to the Order Appointing Guardian ad Litem.

606 Cooperative Parenting and/or Divorce Education Class

The parties may be referred to a cooperative parenting and/or divorce education class if needed.


607 Sealed Records

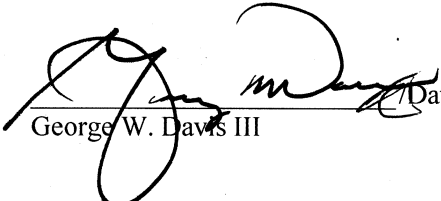
- A. If the Circuit Court Family matter also involves a juvenile court matter, then that portion of the Circuit Court file which contains the juvenile matter must be sealed.
- B. If any medical records for any party or a child of the parties are introduced into evidence, the portion of the file maintaining medical records shall be sealed and not released to anyone other than a party or attorney without a Court Order.
- C. If any educational records involving a minor child are introduced into evidence, those records shall be sealed and not released to anyone other than a party or attorney without Court Order.

608 Submission to the Court

- A. If the record is left open for the submission of evidence and/or memorandums to the Court, then when the case is ready to be submitted, the attorneys and/or parties must file a joint motion that the matter now stands submitted to the Court.

Approved:

 /Date 3/22/12
Hon. C. David Hagerman

 /Date 3-22-12
George W. Davis III

APPENDIX "A"
TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY
PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION
DOMESTIC VIOLENCE PROTOCOL
32ND JUDICIAL CIRCUIT AND DISTRICT
BOYD COUNTY

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit/family and district courts.

I. Uniform Protocol for Processing Cases

- A. Circuit court clerks shall process domestic violence cases in accordance with the procedures set forth in the "Domestic Violence Proceedings" section of the Kentucky Circuit Court Clerk's Manual.
- B. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- C. If there is a pending divorce or custody action involving the parties to the Emergency Protective Order, the matter shall be transferred to the Boyd Circuit Court Division handling the divorce and/or custody matter. The parties must file a notice to the Court advising the Court of the petition. The parties must appear at the scheduled hearing before the Boyd District Court in order to obtain service, or must be served with the new court appearance prior to the scheduled time unless served with the petition designating the new court date and time prior to the scheduled hearing.
- D. Domestic violence cases are civil matters within the purview of CR 41.01. Therefore, this jurisdiction does not have a blanket "no-drop" policy.
- E. At the discretion of the judge and consistent with FCRPP 12, domestic violence cases may be reassigned or transferred to another circuit if there exists a pending dissolution or custody matter in the other Circuit. Any Emergency Protective Order shall continue and the Summons shall be reissued by the initiating Court, pursuant to KRS 403.740(4), for a period not to exceed fourteen (14) days if service has not been made on the adverse party by the date of transfer, or as the Court determines is necessary for the protection of the Petitioner. Thereafter, reissuance of the Summons shall occur as needed in the court of transfer.

II. Twenty-four Hour Accessibility

- A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **during** regular business hours:

Boyd District Court Clerk's Office, Boyd County Judicial Center, 1st Floor, 2805 Louisa Street, Catlettsburg, Kentucky, 41129.

- B. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **after** regular business hours and weekends:

Any law enforcement agency (including city and county police and Kentucky State Police).

- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:

During regular business hours the person receiving and verifying the Petition shall, if possible, deliver the Petition to the Circuit/District Court Clerk's Office and that officer shall immediately present the Petition to the District Judge of the 32nd Judicial District found within Boyd County. If a District Judge cannot be located within the county, the Petition shall be presented to a Circuit Judge of the 32nd Judicial Circuit found within Boyd County. In the event no judge can be located in the county, the Petition shall be presented to a District or Circuit Judge in any county adjoining Boyd County.

- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:

During hours other than regular business hours, the person receiving and verifying the complete Domestic Violence Petition shall deliver the Petition to any appropriate law enforcement agency and an officer of that agency shall immediately present the Petition to the District Judge of the 32nd Judicial District found within Boyd County and if the District Judge cannot be located within the county, the Petition shall be presented to the Circuit Judge of the 32nd Judicial Circuit found within the county. In the event neither judge can be found within the county, the Petition shall be presented to a District or Circuit Judge found in any county adjoining Boyd County.

- E. Petitions will be reviewed within an hour of presentation to a judge or trial commissioner unless it is impossible due to the unavailability of a judge or trial commissioner.

F. The schedule for domestic violence hearings is as follows:

Cases shall be scheduled on Thursday at 9:30 a.m.

III. Contempt Proceedings

A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.


B. Petitioners seeking to initiate contempt proceedings should contact:


The Boyd District Court Clerk or the Boyd County Attorney.

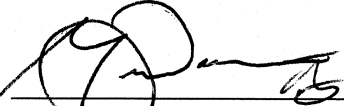
C. No petitioner may be held in contempt for failing to appear at a domestic violence hearing or to prosecute a criminal violation of a protective order.

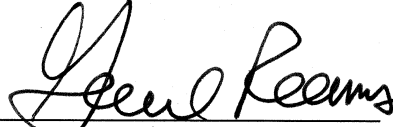
All general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

The above protocol is adopted by all judges in the circuit/district:


Name/Date 3/16/12


Name/Date 3-16-12


Name/Date 3/16-12


Name/Date 3-16-12